

STATE OF ALASKA

Americans with Disabilities Act Compliance Program

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MEMORANDUM

TO: Commissioners
Distribution - See Attached

DATE: August 19, 2011

CC: Division Directors
Cheryl Walsh, Director, Division of
Vocational Rehabilitation

FROM: ADA Task Force (see attached)
Jason Burke, State ADA Coordinator /s./

SUBJECT: ADA Facilities Access
Transition to 2012

As you may be aware [revised ADA regulations](#) were issued in September 2010 for State and Local Governments under title II and for private entities under title III. The attached guidance from the U.S. Department of Justice (U.S. DOJ) outlines the “[Effective Date/Compliance Date](#)” for the revised rules. This memo instructs state agencies on compliance issues associated with implementation to improve access to facilities that host state programs, services and activities.

Why Access Matters

We believe the state can achieve significant cost-savings by building things “right” the first time. Because one in five Americans experience a disability it is important to incorporate design that maximizes accessibility, usability, and efficiency. Access makes it possible for people with disabilities to participate fully in state jobs and services.

Recent New Changes

Beginning March 15, 2012 state agencies are required to use the [2010 Standards for Accessible Design](#) for new construction and alterations; in the meantime they are permitted to use the 2010 Standards to comply with the accessibility requirements of the ADA. It is usually best to comply with the 2010 standards because agencies may be subject to them to ensure program access. Once an agency selects a standard applicable under the ADA for new construction or alterations, that standard must be applied to the entire facility. When fully effective, the 2010 Standards will replace the 1991 ADA Standards for Accessible Design and Uniform Federal Accessibility Standards as accessibility standards for new construction, alterations, program accessibility, and barrier removal under the ADA (paraphrased from [U.S. DOJ Memo to federal agencies March 29, 2011.](#))

How to Approach the Changes

Soon agencies will conduct their annual ADA self-evaluation to improve access and facilitate compliance. As part of this process ADA contacts will refer to facilities contacts regarding plans for barrier removal. They will elicit help in determining whether each of the facilities their programs use will adopt the 1991 or 2010 standard, and whether alternate access is needed.

The attached document entitled “Tips for the Transition to 2012” further outlines agency considerations when determining which standard to adopt. Agencies may achieve cost savings by removing barriers under the 1991 standard and safe harbor under the revised provisions.

Entities will most likely comply with the 2010 ADA Standards if the facility was designed according to the 2004 ADA Architectural Guidelines (ADAAG) or the 2003 or 2006 International Building Code. It will be necessary to look beyond the standards, however, because the 2010 ADA Standards cover some types of facilities for the first time, and the accompanying guidance includes additional requirements.

Where facilities do not have safe harbor under the 2010 standards, agencies will need to identify barriers, set priorities for removal, and provide alternate access. Some of these facilities include residential facilities and dwelling units, play areas, boat harbors, fishing piers, and swimming pools.

Accounting for Compliance

Methods for surveying facilities should be consistent and recorded in a database to ensure monitoring by the ADA program. Prioritization of barrier removal involves public input and should be posted online. Procedures should incorporate review and approval by the State ADA Coordinator whenever projects require resolution of ADA complaints or compliance issues.

Revised ADA requirements should be included in Requests for Proposals, contracts, and awards. It is important to note the 2010 requirement for additional changes when a primary function area is altered, whereby up to 20 percent of the cost of an alteration to a primary function area must be used to provide an accessible path of travel.

Agencies can account for ADA compliance by requiring contractors to detail costs of ADA alterations to existing facilities, especially path of travel, and ensuring that priorities for barrier removal are met. This will provide cumulative cost data and an account of good faith efforts.

Support and Technical Assistance

The Department of Transportation and Public Facilities has initiated a contract for a transition plan of its facilities and can amend its contract to include the assessment of additional facilities at cost. The U.S. Department of Transportation adopted the same standards as the 2010 U.S. DOJ in 2006. You may contact Jon Dunham, DOT&PF Civil Rights Manager for more information at jon.dunham@alaska.gov or 269-0851.

The ADA program will continue to assist agencies to apply the revised regulations, including the 2010 standards. Some materials are available on the [2010 Access Conference](#) website. More are being developed. You are welcome to provide input to the ADA Task Force to facilitate compliance. For more information, please visit www.alaska.gov/ada. You may also contact Jason Burke, State ADA Coordinator at jason.burke@alaska.gov or 465-6929.

Thank you for all of your efforts to improve access for all Alaskans to state programs and facilities.

Attachment A – Facilities Access Memo Distribution

Distribution

Commissioners (see following)
Division ADA Coordinators
Administrative Services Directors
Architects
Facilities Managers
Contracting Officers
Plan Reviewers
Procurement Officers
David Tyler, Director, Division of Fire and Life Safety, DPS
Joel St. Aubin, Engineer/Architect IV, DOT&PF
Tony Pfister, Engineer/Architect II, DOT&PF
Vern Jones, Chief Procurement Officer, Division of General Services, DoA
Tanci Mintz, State Leasing & Facilities Manager, Division of General Services, DoA

Commissioners and the ADA Task Force

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